

November 20, 2019

Mr. Clay Goodwin
Century Engineering, Inc.
10710 Gilroy Road
Hunt Valley, MD 21031

Re: St. Thomas Shopping Center at 9900 Reisterstown Road
Forest Conservation Variance
Tracking # 02-19-3098

Dear Mr. Goodwin:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on November 6, 2019. The requested variance would allow the calculation of the afforestation requirement to be based on proposed 0.9-acre limit of disturbance (LOD) rather than the entire 10.6-acre property to redevelop a portion of this long standing shopping center.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to redevelop a portion of the shopping center. However, full compliance with the afforestation requirement does not deprive the petitioner of all beneficial use of the property, only the cost of complying with the law. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that their plight is due to unique circumstances and not the general conditions of the neighborhood. The need for the variance arises from the petitioner's request for relief from the full afforestation requirement rather than conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed redevelopment is consistent with the current use of the property and the character of the

commercial neighborhood. Therefore, we find that granting the requested variance will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The requested relief is such that a water quality benefit of planting 0.1 acre of forest offsite would be realized. Moreover, the development project is redevelopment, thus not impacting any forest or surface water resources. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions that would necessitate this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The requested variance is consistent with EPS policies regarding application of the Forest Conservation Law to redevelopment. Given that 0.1 acre of afforestation would result from basing the afforestation threshold on the LOD and that the project is redevelopment, we find that the current variance request is consistent with the spirit and intent of the Law. Therefore, this criterion has been met.

Based on our review, this Department finds that required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. 0.1 acre of afforestation shall be addressed by purchasing planting credit at an EPS-approved forest planting bank. If no bank credit is available or other offsite planting location can be obtained, a \$2,395.80 fee in lieu of planting may be paid to Baltimore County. A letter authorizing use of a planting bank is enclosed for your use. Either the executed planting bank letter documenting purchase of the 0.1 acre of planting credit shall be returned to EPS or the fee paid prior to EPS approval of any permit.

2. The following note must be on all plans for this project:

A variance was granted by Baltimore County EPS to the Forest Conservation Law on November 20, 2019 to allow the afforestation requirement to be based on the 0.9-acre limit of disturbance rather than the entire 10.6-acre shopping center. Conditions were placed on this approval to ensure the goals of the Forest Conservation Law are met.

3. A FCP mylar revised to reflect the conditions of this variance must be submitted to EPS and approved prior to EPS approval of any Environmental Agreement or permit.

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It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submission of revised plans and a new variance request.

Please have the property owner sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

David V. Lykens
Director

DVL/ges

Enclosure

c. Ms. Kimberly Potember, St. Thomas GGCAL, LLC

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Property Owners' Signatures

Date

Property Owners' Printed Names